

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Launeil Sanders and Janneth Sanders,)	
)	
Plaintiffs,)	Civil Action No. 7:07-3510-GRA-WMC
)	
vs.)	<u>REPORT OF MAGISTRATE JUDGE</u>
)	
Henry McMaster, et al.,)	
)	
Defendants.)	
)	

The plaintiffs brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On August 15, 2008, the defendant David Ingalls filed a motion to dismiss. On September 3, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiffs were advised of the summary dismissal procedure and the possible consequences if they failed to respond adequately. Despite this explanation, the plaintiffs elected not to respond to the motion.

As the plaintiffs are proceeding *pro se*, the court filed a second order on November 17, 2008, giving the plaintiffs through December 8, 2008, to file their response to the motion to dismiss. The plaintiffs were specifically advised that if they failed to respond, this action would be dismissed for failure to prosecute. The plaintiffs elected not to respond.

Based on the foregoing, it appears the plaintiffs no longer wish to pursue this action against defendant David Ingalls. Accordingly, it is recommended that David Ingalls be dismissed as a defendant in this action for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

December 12, 2008
Greenville, South Carolina



WILLIAM M. CATOE
UNITED STATES MAGISTRATE JUDGE